

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**ANDREA D. BOHR AND  
FRANKLIN D. BOHR**

**RESPONDENTS,**

**v.  
NODAWAY VALLEY BANK**

**APPELLANT.**

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DOCKET NUMBER WD76033  
DATE: October 15, 2013

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Appeal From:

Buchanan County Circuit Court  
The Honorable Randall R. Jackson, Judge

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Appellate Judges:

Division Three: Mark D. Pfeiffer, Presiding Judge, Thomas H. Newton, Judge and Cynthia L. Martin, Judge

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Attorneys:

James R. Mueller, Kansas City, MO, for respondents.

Patrick N. Fanning, Kansas City, MO, for appellant.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

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FRANKLIN D. BOHR,**

**RESPONDENTS,**

**v.  
NODAWAY VALLEY BANK,**

**APPELLANT.**

No. WD76033

Buchanan County

Before Division Three: Mark D. Pfeiffer, Presiding Judge, Thomas H. Newton, Judge and Cynthia L. Martin, Judge

Nodaway County Bank appeals the trial court's grant of summary judgment in favor of Andrea D. Bohr and Franklin D. Bohr on their petition for quiet title to real property owned by their grandmother, Dorothy Bohr, prior to her death. Bank contends the trial court's judgment was erroneous because Dorothy Bohr possessed only a life estate at the time of her death, and was thus not an "owner" authorized to execute a beneficiary deed pursuant to the Nonprobate Transfers Law, Chapter 461. We conclude that Dorothy Bohr was an "owner" as defined by the Nonprobate Transfers Law.

**AFFIRMED**

1. The construction of a statute is a question of law. The primary rule of statutory construction is to determine the intent of the legislature from the plain and ordinary meaning of the words used in the statute.

2. Chapter 461, the Nonprobate Transfers Law of Missouri, was enacted in 1989 and created an informal means by which property, including real property, could be transferred outside of probate, and without consideration, by a beneficiary designation.

3. Section 461.005(8) defines "owner" as "[A] person or persons having a right, exercisable alone or with others . . . to designate the beneficiary of a nonprobate transfer."

4. "Nonprobate transfer" is defined in section 461.005(7) as "[A] transfer of property taking effect upon the death of the owner, pursuant to a beneficiary designation." The definition then lists several conveyances that are not statutory nonprobate transfers, including a transfer to a remainderman on termination of a life tenancy.

5. Dorothy Bohr's beneficiary deed was a nonprobate transfer as that term is defined. Though she held a life estate at the time of its execution, she was not excluded as a matter of law from the definition of "owner." The list of conveyances set out in the definition of "nonprobate transfer" simply lists other lawful transfers that have the similar effect of conveying title on the

death of an owner outside of probate in order to distinguish them from "nonprobate transfers" effected by a beneficiary designation.

6. At the time the beneficiary deed was executed, Dorothy Bohr possessed a life estate and the express power to revoke a remainder interest created by earlier deeds. The trial court found the beneficiary deed had both the intent and the legal effect, as of the date of its execution, to revoke the remainder interest created by the earlier deeds, a conclusion not challenged on appeal.

Opinion by Cynthia L. Martin, Judge

October 15, 2013

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